

§ 84.36 Reports of DoD and defense related employment (DD form 1787).

(a) *Individuals required to file.* The following former DoD employees are required by 10 U.S.C. 2397 to file DD Form 1787 with their former DoD component:

(1) Each former DoD employee of a DoD component who:

(i) Served at a pay rate equal to or greater than the minimum rate for a GS/GM-13, or served on active duty at least ten years and held the grade of 0-4 or above at any time during his service;

(ii) Within the two-year period immediately following termination of service or employment with the DoD component, is employed by a defense contractor who, during the preceding one-year period, was awarded \$10 million or more in defense contracts; and

(iii) Is employed by or performs services for the defense contractor and receives compensation of or is salaried at a rate of \$25,000 per year or more from the defense contractor.

(2) Compensation is received by a reporting individual if it is paid to a business entity with which the reporting individual is affiliated in exchange for services rendered by that reporting individual;

(3) A rate of \$25,000 per year equates to \$12 per hour.

(b) *Time of filing.* A former DoD employee shall file a report with his former DoD component DAE0 or designee within 90 days of entering on duty with the defense contractor.

(c) *Review.* (1) When the report is filed, the DoD component DAE0 or designee shall review the report to determine whether:

(i) Each item is completed and sufficient information is provided; and

(ii) Whether the information indicates any violation or apparent violation of any of the conflicts of interest, standards of conduct, procurement integrity, and related laws and regulations.

(2) The DoD component DAE0 or designee need not audit the report. Disclosures are to be taken at "face value" unless there is a patent omission or ambiguity or the official has independent knowledge of matters outside the report. However, it is expected that the DoD component DAE0 or designee will

resolve any apparent violations to ensure there are no actual violations.

(3) If the DoD component DAE0 or designee believes that additional information is required, the reporting individual shall be notified of the additional information required and the date by which it must be submitted. The reporting individual shall submit the required information directly to the DoD component DAE0 or designee.

(4) When the DoD component DAE0 or designee has completed the review and accomplished any necessary remedial action, he shall sign and date the report and dispose of it in accordance with paragraph (d)(2) of this section.

(5) If the DoD component DAE0 or designee concludes that the reporting individual is not in compliance with applicable laws or regulations, the DoD component DAE0 or designee shall:

(i) Notify the reporting individual of the preliminary determination;

(ii) Afford the reporting individual an opportunity for personal consultation, if practicable;

(iii) Determine what remedial action should be taken to bring the reporting individual into compliance; and

(iv) Notify the reporting individual of the remedial action required, indicating a date by which that action must be taken, normally within 90 days.

(6) When the DoD component DAE0 or designee determines that a reporting individual has complied fully with the remedial measures, a notation to that effect shall be made in the comment section of the report. Then the DoD component DAE0 or designee shall sign and date the report as the reviewing official and dispose of it in accordance with paragraph (d)(2) of this section.

(d) *Disposition.*

(1) After the Ethics Counselor signs and dates the report, the Ethics Counselor shall send the original to the DoD Component DAE0 or designee, who shall forward it, together with all other such reports that were received during the previous calendar year, to SOCO not later than March 15.

(2) The DoD Component DAE0 or designee shall ensure that appropriate data from each DD Form 1787 is extracted and sent, together with all

other such data from other such reports that were received during the previous calendar year for the entire DoD Component, by March 15 to the Defense Manpower Data Center (DMDC) where a consolidated report to Congress is compiled. DMDC will accept data only on computer disk using any common word processing software or ASCII.

(3) If steps ensuring compliance with applicable law and regulations are not taken by the date established, the Ethics Counselor shall report the matter to the DoD Component DAE and take whatever other action might be required in accordance with subchapter J of this part.

(4) DD Forms 1787 shall be retained by SOCO for six years from the date of filing with SOCO.

(e) *Public availability of reports.* DD Forms 1787 must be made available for public examination upon request after the reports are filed with SOCO, unless exempted pursuant to law. Reporting individuals are personally responsible for ensuring that their reports are accurate, complete, and timely.

(f) *Penalties—(1) Administrative penalties.* Anyone failing to file a report or falsifying or failing to file required information, may be subject to any applicable personnel or other action in accordance with applicable law or regulation, including adverse action. An administrative penalty of up to \$10,000 may be imposed in accordance with 10 U.S.C. 2397.

(2) *Criminal liability.* Any individual who knowingly or willfully falsifies information on a report may be subject to criminal prosecution under 18 U.S.C. 1001.

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20032, Apr. 24, 1995]

Subpart J—Enforcement

§ 84.37 Enforcement of the provisions of the Joint Ethics Regulation.

Penalties for violation of the rules republished in, and prescribed by, this part include the full range of applicable criminal, civil and administrative sanctions for current DoD employees, including punishment under the UCMJ for military members. Many of the statutes that regulate the post-Govern-

ment service employment activities of former or retired DoD employees also provide for specific criminal and administrative sanctions. This subpart sets out the requirements for reporting and inquiry to ensure that ethics-related laws and regulations are properly enforced and that appropriate administrative or disciplinary action is taken.

§ 84.38 Reporting procedures.

(a) *Reporting suspected violations.* With the exception of the provisions of 41 U.S.C. 423 that are addressed in paragraph (c) of this section, DoD employees who suspect that a violation of this part has occurred shall report the matter to any of the following:

- (1) The DoD employee's agency designee;
- (2) The suspected violator's agency designee;
- (3) The head of the DoD component command or organization;
- (4) Any Ethics Counselor;
- (5) The DoD component's IG;
- (6) The DoD component's criminal investigative office; or
- (7) The DoD hotline or DoD component hotline.

(b) *Receipt of report.* (1) DoD component investigative offices shall consult local Ethics Counselors as appropriate to ensure that up-to-date expertise is applied in the investigation of each suspected violations of this part in recognition of rapidly changing rules and statutes in the ethics area.

(2) If a suspected violation is reported to some entity other than those named in paragraph (a)(4) through (a)(7) of this section, then the notified person shall promptly report the matter to his Ethics Counselor.

(3) An Ethics Counselor who receives a report shall review the facts and, if the facts tend to support a violation, report the allegation to the appropriate investigative organization or, through the chain of command or supervision, to the head of the DoD component command or organization of the suspected violator. In addition, the Ethics Counselor must ensure that the following is accomplished:

- (i) If a violation of 18 U.S.C. 203, 205, 207, 208 or 209 is suspected, the matter